

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

KAIFI LLC,

Plaintiff,

v.

T-MOBILE US, INC., and T-MOBILE
USA, INC.,

Defendants.

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CIVIL ACTION NO. 2:20-CV-00281-JRG

**MINUTES FOR INITIAL PRETRIAL CONFERENCE
HELD BEFORE U.S. DISTRICT JUDGE RODNEY GILSTRAP
November 15, 2021**

OPEN: 10:48 AM

ADJOURN: 04:53 PM

ATTORNEYS FOR PLAINTIFF:

See attached

ATTORNEYS FOR DEFENDANTS:

See attached

LAW CLERKS:

Tom Derbish
Cason Cole
Cody Carter

COURT REPORTER:

Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY:

Andrea Brunson, CP

TIME	MINUTES
10:48 AM	Court opened.
10:49 AM	Court called for announcements from counsel.
10:50 AM	Court provided instructions and housekeeping matters to the parties. Case is scheduled for jury selection and trial on Monday, December 6, 2021. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. Counsel will be given 30 minutes per side for <i>voir dire</i> . The parties will be given 12 hours per side for the jury trial portion. Opening will be 30 minutes per side. Closings will be 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections re: demonstratives and depositions to be used the next day, or notification that there are no disputes. Three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Court encouraged the parties to utilize the meet and confer process

	during the course of the trial to resolve disputes. Rule 50(a) motions will be heard by the Court after all the evidence is in and Plaintiff rests any rebuttal case. Court will hold an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court instructed counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Counsel instructed to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. If all pre-trial matters are not concluded today, the Court will conduct a second Pretrial Conference on Tuesday, November 16, 2021. Twelve juror notebooks to be delivered to chambers no later than 12:00 noon on Monday, November 29, 2021. Notebooks to contain: Copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a headshot photo, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report.
11:06 AM	Court proceeded with hearing argument re: disputed dispositive motions: [SEALED] KAIFI's Motion for Partial Summary Judgment Against Defendants' Miscellaneous Defendants (Dkt. No. 220). Court also incorporated [SEALED] Defendants' Motion for Summary Judgment of No Pre-Suit Damages Based on Plaintiff's Failure to Comply with 35 U.S.C. § 287 (Dkt. No. 235).
11:07 AM	Mr. Andrew Choung presented argument for the Plaintiff.
11:13 AM	Courtroom sealed.
11:14 AM	Argument by Mr. Andrew Choung for the Plaintiff, continued.
11:33 AM	Responsive argument by Ms. Kate Dominguez for the Defendants.
11:59 AM	Court made rulings re: Dkt. No. 220 and Dkt. No. 235 as set forth in the record.
12:04 PM	Courtroom unsealed.
12:04 PM	Recess for lunch.
01:04 PM	Court reconvened.
01:04 PM	Court heard argument re: [SEALED] KAIFI's Motion for Partial Summary Judgment Against Defendants' Defense of Invalidity as to Certain Prior Art (Dkt. No. 221).
01:05 PM	Mr. Andrew Choung presented argument for the Plaintiff.
01:17 PM	Responsive argument by Mr. Nathan Curtis for the Defendants.
01:22 PM	Court GRANTED-IN-PART and DENIED-IN-PART Dkt. No. 221 as set forth in the record.
01:27 PM	Court heard argument re: [SEALED] KAIFI's Motion to Exclude Defendants' Undisclosed Expert Kaveh Pahlavan (Dkt. No. 222).
01:27 PM	Prior to argument, Court made inquiry with Mr. Andrew Choung on behalf of the Plaintiff re: Dkt. No. 222.
01:32 PM	Court DENIED without prejudice Dkt. No. 222.
01:33 PM	Court heard argument re: [SEALED] KAIFI's Motion to Strike and Exclude the Survey and Any Improper Opinions Relying Thereon by Defendants' Expert Sarah Butler (Dkt. No. 223).
01:34 PM	Mr. Andrew Choung presented argument for the Plaintiff.

01:40 PM	Responsive argument by Mr. Jaysen Chung for the Defendants.
01:46 PM	Court DENIED Dkt. No. 223.
01:47 PM	Court heard argument re: [SEALED] Motion by KAIFI to Strike and Exclude Opinions and Testimony of Defendants' Expert Julie L. Davis (Dkt. No. 224).
01:48 PM	Mr. Jason Sheasby presented argument for the Plaintiff.
01:55 PM	Responsive argument by Ms. Ashbey Morgan for the Defendants.
01:59 PM	Court DENIED Dkt. No. 224.
02:01 PM	Court heard argument re: [SEALED] KAIFI's Motion to Strike and Exclude Opinions and Testimony of Defendants' Expert James Proctor (Opening Report) (Dkt. No. 225).
02:02 PM	Mr. Jason Sheasby presented argument for the Plaintiff.
02:12 PM	Responsive argument by Mr. Jaysen Chung for the Defendants.
02:19 PM	Additional argument by Mr. Jason Sheasby on behalf of the Plaintiff.
02:20 PM	Court DENIED Dkt. No. 225.
02:21 PM	Court heard argument re: [SEALED] KAIFI's Motion to Strike and Exclude Opinions and Testimony of Defendants' Expert James Proctor (Rebuttal Report) (Dkt. No. 226).
02:22 PM	Mr. Jason Sheasby presented argument for the Plaintiff.
02:27 PM	Responsive argument by Ms. Ashbey Morgan for the Defendants.
02:31 PM	Court DENIED Dkt No. 226.
02:32 PM	Court heard argument re: [SEALED] Defendants' Motion for Partial Summary Judgment of No Infringement by Over-The-Top ("OTT") Applications (Dkt. No. 227).
02:33 PM	Mr. Robert Vincent presented argument for the Defendants.
02:41 PM	Responsive argument by Mr. Jason Sheasby for the Plaintiff.
02:48 PM	Court DENIED Dkt. No. 227.
02:48 PM	Dkt. No. 228 withdrawn
02:49 PM	Court heard argument re: [SEALED] Defendants' Motion for Summary Judgment of Ineligibility of U.S. Patent No. 6,922,728 Under 35 U.S.C. § 101 (Dkt. No. 229).
02:49 PM	Mr. Brian Rosenthal presented argument for the Defendants.
03:16 PM	Responsive argument by Mr. Jason Sheasby for the Plaintiff.
03:26 PM	Additional argument by Mr. Brian Rosenthal on behalf of the Defendants.
03:32 PM	Court DENIED Dkt. No. 229 and will issue a written order thereon.
03:34 PM	Recess.
03:52 PM	Court reconvened.
03:53 PM	Court heard argument re: [SEALED] Defendants' <i>Daubert</i> Motion and Motion to Exclude Certain Opinions of Mr. Thomas Blackburn (Dkt. No. 230).
03:53 PM	Mr. Robert Vincent presented argument for the Defendants.
04:04 PM	Responsive argument by Mr. Jason Sheasby for the Plaintiff.
04:11 PM	Additional argument by Mr. Robert Vincent on behalf of the Defendants.
04:14 PM	Court GRANTED Dkt. No. 230 and provided additional instruction re: same as set forth in the record.
04:15 PM	Court heard argument re: [SEALED] Defendants' <i>Daubert</i> Motion and Motion to Exclude the Opinions of Mr. David Kennedy (Dkt. 231). Court also incorporated [SEALED] (Opposed) Motion by KAIFI for Leave to Supplement Expert Report of David Kennedy (Dkt. No. 290).

04:15 PM	Mr. Jaysen Chung presented argument for the Defendants.
04:28 PM	Responsive argument by Mr. Chris Bunt for the Plaintiff.
04:41 PM	Additional argument by Mr. Jaysen Chung for the Defendants.
04:50 PM	Court DENIED Dkt. No. 231 and GRANTED Dkt. No. 290.
04:53 PM	Court adjourned until 9:00 AM tomorrow.